

with other telephone lines doing a like business."

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

Committee Room,

Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 31, A bill to be entitled "An Act to simplify trials for the contest of local option elections, and to simplify criminal trials that arise under local option laws by amending Article 3397 of Title LXIX, Revised Civil Statutes of Texas, providing the time and manner in which local option elections may be contested, prescribing the effect to be given the judgment of the courts in which said election is contested, and provided further, that when no contest is filed as provided in the act that the legality of the election and the result as declared shall be conclusively presumed and shall be binding upon all courts, repealing all laws in conflict with this act, and declaring an emergency."

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

TENTH DAY.

Senate Chamber,
Austin Texas.

Thursday, April 25, 1907.

The Senate met pursuant to adjournment. Lieutenant Governor Davidson presiding.

Roll call, quorum present, the following Senators answering to their names:

Alexander.	Kellie.
Barrett.	Looney.
Brachfield.	Mayfield.
Chambers.	Meachum.
Cunningham.	Murray.
Faust.	Paulus.
Glasscock.	Senter.
Green.	Skinner.
Greer.	Smith.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Holsey.	Watson.
Hudspeth.	Willacy.

Absent.

Masterson. Veale.

Absent—Excused.

Griggs.

Prayer by the Chaplain. Rev. H. M. Sears.

Pending the reading of the Journal of yesterday, on motion of Senator Kellie, the same was dispensed with.

(See Appendix for committee reports.)

BILLS AND RESOLUTIONS.

By Senator Faust:

Senate bill No. 48. A bill to be entitled "An Act to amend Article 1092, Chapter 2, Title XV, of the Code of Criminal Procedure of the State of Texas, relating to fees of county and district attorneys in examining trials."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stone (by request):

Senate bill No. 49. A bill to be entitled "An Act authorizing a district judge where more than one defendant is charged by indictment or information to try them all together in one trial."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stone (by request):

Senate bill No. 50. A bill to be entitled "An Act to amend Article 770 of the Code of Criminal Procedure of the State of Texas."

Read first time, and referred to Judiciary Committee No. 2.

By Senator Stone (by request):

Senate bill No. 51. A bill to be entitled "An Act to repeal Articles 771, 781, 706, 707, 708 and 710, Code of Criminal Procedure of the State of Texas."

Read first time, and referred to Judiciary Committee No. 2.

Morning call concluded.

SENATE BILL NO. 11.

Senate bill No. 1 was special order for this hour.

Senator Looney moved that the pending business (Senate bill No. 1) be suspended and the Senate take up, out of its order, Senate bill No. 11.

Senator Meachum moved as a substitute that the pending order of business (Senate bill No. 1) be suspended, and the Senate take up, out of its order, Senate bill No. 11 and that Senate bill No. 1 be made a special order for tomorrow morning at the conclusion of the morning call.

The substitute motion was adopted by the following vote:

Yeas—20.

Alexander.	Chambers.
Barrett.	Cunningham.

Faust.	Meachum.
Glasscock.	Murray.
Greer.	Paulus.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Holsey.	Watson.
Looney.	Willacy.

Nays—7.

Brachfield.	Senter.
Green.	Skinner.
Hudsneth.	Smith.
Mayfield.	

Absent.

Kellie.	Veale.
Masterson.	

Absent—Excused.

Griggs.

The Chair laid before the Senate, on third reading,

Senate bill No. 11, A bill to be entitled "An Act providing for the appointment of court bailiff by the judges of the district courts in certain counties of this State prescribing their qualifications, the oath to be taken by them, their compensation, their duties and providing suitable punishment for the violation of the duties imposed upon them, and declaring an emergency."

Senator Looney offered the following amendment:

Amend the bill by striking out the word "shall," in line 15, Section one (1), page one (1), and substitute therefor the following: "May when he deems it necessary," and by striking all of Section one (1), after the word "paid," in line 23.

The amendment was read, and adopted by the following vote:

Yeas—25.

Alexander.	Hudspeth.
Barrett.	Looney.
Brachfield.	Mayfield.
Chambers.	Meachum.
Cunningham.	Murray.
Faust.	Paulus.
Glasscock.	Senter.
Green.	Skinner.
Greer.	Stokes.
Grinnan.	Stone.
Harbison.	Terrell.
Harper.	Willacy.
Holsey.	

Nays—1.

Smith.

Absent.

Kellie.	Veale.
Masterson.	Watson.

Absent—Excused.

Griggs.

Senator Looney offered the following amendment:

Amend the caption by striking out the following language: "In certain counties."

The amendment was adopted by the following vote:

Yeas—25.

Alexander.	Hudspeth.
Barrett.	Looney.
Brachfield.	Mayfield.
Chambers.	Meachum.
Cunningham.	Paulus.
Faust.	Senter.
Glasscock.	Skinner.
Green.	Stokes.
Greer.	Stone.
Grinnan.	Terrell.
Harbison.	Watson.
Harper.	Willacy.
Holsey.	

Nays—2.

Murray.	Smith.
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Absent.

Kellie.	Veale.
Masterson.	

Absent—Excused.

Griggs.

The bill was read third time, and passed by the following vote:

Yeas—16.

Alexander.	Harper.
Barrett.	Looney.
Brachfield.	Mayfield.
Cunningham.	Meachum.
Green.	Paulus.
Greer.	Skinner.
Grinnan.	Stokes.
Harbison.	Terrell.

Nays—8.

Chambers.	Hudspeth.
Faust.	Smith.
Glasscock.	Stone.
Holsey.	Watson.

Absent.

Kellie.	Senter.
Masterson.	Veale.
Murray.	Willacy.

Absent—Excused.

Griggs.

Senator Looney moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed by the following vote:

Yeas—16.

Alexander.	Harper.
Barrett.	Hudspeth.
Brachfield.	Looney.
Cunningham.	Mayfield.
Green.	Meachum.
Greer.	Paulus.
Grinnan.	Skinner.
Harbison.	Terrell.

Nays—7.

Chambers.	Smith.
Faust.	Stone.
Glasscock.	Watson.
Holsey.	

Absent.

Kellie.	Stokes.
Masterson.	Veale.
Murray.	Willacy.
Senter.	

Absent—Excused.

Griggs.

SENATE BILL NO. 2.

The Chair laid before the Senate, on third reading,

Committee Substitute for Senate bill No. 2, A bill to be entitled "An Act to amend Articles 5058, 5059 and 5060 of Title CIV, Chapter 1, Revised Civil Statutes of 1895 of the State of Texas, and to add thereto Article 5058a."

The bill was read third time, and passed.

Senator Brachfield moved to reconsider the vote by which the bill was passed, and lay that motion on the table.

The motion to table prevailed.

SENATE BILL NO. 13.

The Chair laid before the Senate, on third reading,

Senate bill No. 13, A bill to be entitled "An Act to amend Articles 643 and 644, Chapter 2, Title VIII. of the Code of Criminal Procedure of the State of Texas, adopted at the Regular Session of the Twenty-fourth Legislature, providing for the order of a special venire in any district court in a criminal action for a capital offense. so that the said Articles 643 and 644 may hereafter be as follows."

Senator Stone moved that further consideration of the bill be postponed until May 11th.

Senator Meachum moved, as a substitute, that further consideration of the bill be postponed until after the noon hour today.

The substitute motion prevailed.

SENATE BILL NO. 15.

The Chair laid before the Senate, as regular order,

Senate bill No. 15, A bill to be entitled "An Act to amend Article 723 of the Code of Criminal Procedure of the State of Texas, relating to new trials and the reversals on appeals."

There being a favorable majority committee report, and an unfavorable minority committee report,

Senator Hudspeth moved the adoption of the majority committee report.

Senator Terrell moved, as a substitute, the adoption of the minority committee report.

The substitute motion was lost by the following vote:

Yeas—11.

Chambers.	Paulus.
Faust.	Smith.
Grinnan.	Stone.
Harbison.	Terrell.
Harper.	Watson.
Murray.	

Nays—13.

Alexander.	Hudspeth.
Barrett.	Looney.
Brachfield.	Mayfield.
Glasscock.	Skinner.
Green.	Stokes.
Greer.	Willacy.
Holsey.	

Absent.

Cunningham.	Masterson.
Kellie.	Veale.

Absent—Excused.

Griggs.

PAIRED.

Senator Meachum (present), who would vote "yea," with Senator Senter (absent), who would vote "nay."

The majority committee report was then adopted by the following vote:

Yeas—14.

Alexander.	Holsey.
Barrett.	Hudspeth.
Brachfield.	Looney.
Cunningham.	Mayfield.
Glasscock.	Paulus.
Green.	Skinner.
Greer.	Willacy.

Nays—11.

Chambers.	Smith.
Faust.	Stokes.
Grinnan.	Stone.
Harbison.	Terrell.
Harper.	Watson.
Murray.	

Absent.

Kellie.	Veale.
Masterson.	

Absent—Excused.

Griggs.

PAIRED.

Senator Meachum (present), who would vote "nay," with Senator Senter (absent), who would vote "yea."

Senator Chambers offered the following amendment:

Amend by adding after the word "justice," line 20, the following: "Provided, the provisions of this act shall only apply to cases of which justice court has jurisdiction."

Senator Brachfield made the point of order that the amendment was not germane to the bill.

The Chair overruled the point of order.

Pending further discussion on the amendment, Senator Harper moved the previous question on the amendment, which was seconded, and

Senator Cunningham made the point of order on the amendment that the provisions of the amendment sought to kill the bill, and that an amendment to perfect the bill was in order.

The Chair overruled the point of order.

The previous question was then ordered.

The amendment by Senator Chambers was then adopted by the following vote:

Yeas—15.

Chambers.	Paulus.
Faust.	Smith.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Holsey.	Watson.
Kellie.	Willacy.
Murray.	

Nays—11.

Alexander.	Greer.
Barrett.	Hudspeth.
Brachfield.	Looney.
Cunningham.	Mayfield.
Glasscock.	Skinner.
Green.	

Absent.

Masterson.	Veale.
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Absent—Excused.

Griggs.

PAIRED.

Senator Meachum (present), who would vote "yea," with Senator Senter (absent), who would vote "nay."

Senator Chambers moved to reconsider the vote by which the amendment was adopted, and lay that motion on the table.

The motion to table prevailed by the following vote:

Yeas—15.

Chambers.	Paulus.
Faust.	Smith.
Grinnan.	Stokes.
Harbison.	Stone.
Harper.	Terrell.
Holsey.	Watson.
Kellie.	Willacy.
Murray.	

Nays—11.

Alexander.	Greer.
Barrett.	Hudspeth.
Brachfield.	Looney.
Cunningham.	Mayfield.
Glasscock.	Skinner.
Green.	

Absent.

Masterson.	Veale.
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Absent—Excused.

Griggs.

PAIRED.

Senator Meachum (present), who would vote "yea," with Senator Senter (absent), who would vote "nay."

Senator Grinnan offered the following amendment, which was adopted:

Amend by striking out the two last words in Section 1.

Senator Chambers offered the following amendment:

Amend the bill by striking out the enacting clause.

CHAMBERS,
MEACHUM.

The amendment was adopted by the following vote:

Yeas—16.

Chambers.	Harper.
Faust.	Holsey.
Grinnan.	Kellie.
Harbison.	Meachum.

Murray.	Stone.
Paulus.	Terrell.
Smith.	Watson.
Stokes.	Willacy.

Nays—11.

Alexander.	Greer.
Barrett.	Hudspeth.
Brachfield.	Looney.
Cunningham.	Mayfield.
Glasscock.	Skinner.
Green.	

Absent.

Masterson.	Veale.
Senter.	

Absent—Excused.

Griggs.

Senator Chambers moved to reconsider the vote by which the amendment was adopted, and lay that motion on the table.

The motion to table prevailed by the following vote:

Yeas—15.

Chambers.	Murray.
Faust.	Paulus.
Grinnan.	Smith.
Harbison.	Stokes.
Harper.	Stone.
Holsey.	Terrell.
Kellie.	Watson.
Meachum.	

Nays—11.

Alexander.	Greer.
Barrett.	Hudspeth.
Brachfield.	Looney.
Cunningham.	Mayfield.
Glasscock.	Skinner.
Green.	

Absent.

Masterson.	Veale.
Senter.	Willacy.

Absent—Excused.

Griggs.

SENATE BILL NO. 18.

The Chair laid before the Senate, on second reading,

Senate bill No. 18, A bill to be entitled "An Act to authorize the district courts to employ a stenographer, to provide compensation therefor, and to repeal Chapter 112, page 209. General Laws of the Twenty-ninth Legislature, passed at its Regular Session, and with an emergency clause."

RECESS.

On motion of Senator Glasscock, the Senate, at 12 o'clock, recessed until 2:30 o'clock today.

AFTER RECESS.

The Senate was called to order by Lieutenant Governor Davidson.

SENATE BILL NO. 13.

The Chair laid before the Senate, on third reading and special order for this hour, Senate bill No. 13 (see caption in former proceedings of today).

Senator Stone moved that the further consideration of the bill be postponed until May 11th.

Senator Senter called for the reading of the bill.

The motion by Senator Stone was lost by the following vote:

Yeas—9.

Brachfield.	Paulus.
Chambers.	Smith.
Faust.	Stone.
Harper.	Watson.
Murray.	

Nays—15.

Alexander.	Mayfield.
Barrett.	Meachum.
Glasscock.	Senter.
Green.	Skinner.
Greer.	Stokes.
Grinnan.	Terrell.
Hudspeth.	Willacy.
Looney.	

Absent.

Cunningham.	Kellie.
Harbison.	Masterson.
Holsey.	Veale.

Absent—Excused.

Griggs.

The bill was read third time, and the Senate refused to pass same by the following vote:

Yeas—8.

Glasscock.	Meachum.
Green.	Senter.
Grinnan.	Stokes.
Hudspeth.	Terrell.

Nays—17.

Alexander.	Faust.
Barrett.	Greer.
Brachfield.	Harper.
Chambers.	Kellie.
Cunningham.	Looney.

Mayfield.	Smith.
Murray.	Stone.
Paulus.	Watson.
Skinner.	

Absent.

Harbison.	Veale.
Holsey.	Willacy.
Masterson.	

Absent—Excused.

Griggs.

Senator Chambers moved to reconsider the vote by which the Senate refused to pass the bill, and lay that motion on the table.

The motion to table prevailed by the following vote:

Yeas—16.

Alexander.	Kellie.
Barrett.	Looney.
Brachfield.	Mayfield.
Chambers.	Murray.
Cunningham.	Skinner.
Faust.	Smith.
Greer.	Stone.
Harper.	Watson.

Nays—9.

Glasscock.	Paulus.
Green.	Senter.
Grinnan.	Stokes.
Hudspeth.	Terrell.
Meachum.	

Absent.

Harbison.	Veale.
Holsey.	Willacy.
Masterson.	

Absent—Excused.

Griggs.

SENATE BILL NO. 18.

The Chair laid before the Senate, on second reading, and as pending business when the Senate recessed for the noon hour. (See former proceeding of today for caption.)

Senator Chambers offered the following substitute for the bill:

S. B. No. 18.

By Chambers.

A BILL

To Be Entitled

An Act providing for the appointment of official stenographers for district courts by the judges thereof in all districts, to report cases, and make the report of such stenographer when filed the statement of facts of all evidence,

both oral and written, introduced in the trial of cases; to provide for the compensation of such stenographers, declaring an emergency and repealing Chapter 60, page 84, Acts of the Twenty-eighth Regular Session of the Legislature, also Chapter 112, page 219, Acts of the Regular Session of the Twenty-ninth Legislature of the State of Texas.

Be it enacted by the Legislature of the State of Texas:

Section 1. For the purpose of preserving the records in all cases for the information of the court, jury and parties the judges of the district courts of all the judicial districts of this State, composed of only one county, or of only a portion of a county and all other district courts sitting in the same county or in districts composed of more than one county, shall appoint an official stenographer for such court who shall be well skilled in stenography, and who shall be a sworn officer of the court and who shall execute a bond payable and conditioned as is herein provided, and shall hold his office during the pleasure of the court.

Sec. 2. Before any person can be appointed an official stenographer under the provisions of this act of any district court in this State, he shall be examined as to his competency by a committee to be composed of at least three members of the bar practicing in said court, such committee to be appointed by the judge thereof; the test of the competency of any applicant for the office of official stenographer shall be as follows: The applicant shall write in the presence of such committee at the rate of at least one hundred and twenty words per minute for five consecutive minutes from questions and answers not previously written by him, and transcribe the same with accuracy. If the applicant pass this test satisfactorily a majority of the committee shall furnish him with a certificate of the fact which shall be filed among the records of the court.

Upon the occasion of subsequent appointments the presentation of a certified transcript from the clerk of the court of the certificate above mentioned shall be taken as prima facie evidence of the stenographer's competency.

Sec. 3. Before any person shall assume the duties of court stenographer under the provisions of this act, he shall subscribe to an oath to be administered to him by the clerk of any district court to the effect that he will well and truly and in an impartial manner, keep a correct record of all the evidence offered in any

case which may be reported by him, together with the objections and exceptions thereto, which may be interposed by the parties to such suit and the rulings and remarks of the court in passing on the admissibility of such testimony, and shall execute a good and sufficient bond in the sum of \$1000, payable to the Governor of the State of Texas, with at least two good and sufficient sureties resident citizens of the State of Texas, to be appointed by the district judge, conditioned that he will well and truly perform the duties of his office as prescribed in this act, and shall pay over to the Treasurer of the State of Texas all moneys coming into his hands in excess of the maximum amount allowed him under this act.

Sec. 4. It shall be the duty of the official stenographer to attend all sessions of the court to take full stenographic notes of the oral evidence offered in every case tried in said court, together with all objections to the admissibility of testimony, the rulings of the court therein, and all exceptions taken to such rulings; to preserve all notes taken in said court for the future use or reference for at least one year after having been transcribed and to furnish either party to the suit a transcript in the form of a statement of facts of all of said evidence or other proceedings upon the payment to him of the compensation hereinafter provided.

Sec. 5. If after the trial of any cause either party to the suit may desire a statement of the facts adduced on the trial thereof, he shall file with the official stenographer a request in writing for such statement, whereupon the stenographer shall within twenty days from the date of such application prepare and deliver to such party or his or her attorney of record a correct transcript of all the testimony introduced in evidence in said cause, including depositions of witnesses and document or evidence in narrative form, which shall bear the certificate of such stenographer to the effect that such statement of facts contains a full, true and accurate statement of all the material evidence introduced on the trial thereof, and shall at the same time deliver a duplicate thereof to the clerk of the court in which said case was tried, to be filed by said clerk and kept among the papers of said cause for the inspection of all persons, but shall not be recorded by said clerk; provided further, that if during the trial of said cause or afterwards any party to said suit or other person shall desire a transcribed copy of any part of said evidence, the objections of counsel to the admission of evidence or the remarks or rulings of the

court thereon, such stenographer shall furnish a transcript thereof promptly upon the payment to him of a compensation hereinafter provided.

Sec. 6. In the trial of all criminal cases in the district court in which the defendant is charged with a felony, the stenographer shall keep an accurate stenographic record of all the proceedings of such trial in like manner as is provided for in civil cases, and should an appeal be prosecuted from any judgment or conviction, whenever the State and defendant can not agree as to the testimony of any witnesses, then and in such event so much of the transcript of the stenographer's report with reference to such disputed fact or facts, shall be inserted in the statement of facts as is necessary to show what the witness testified to in regard to the same, and shall constitute a part of the statement of facts, and the same rule shall apply in the preparation of bills of exception; provided, that such stenographer's report, when carried into the statement of facts or bills of exceptions, shall be condensed so as not to contain the questions and answers except where, in the opinion of the judge, such questions and answers may be necessary in order to elucidate the fact or question involved.

Provided, that the amount of \$5 per day allowed by this act shall be in full of all compensation to said stenographer for any and all criminal cases.

Sec. 7. The official stenographer shall receive as per diem compensation the sum of \$5 per day for each and every day he shall be actually engaged in taking testimony in the trial of cases in the court for which he is appointed, to be paid monthly out of the general fund of the county in which said court sits, upon the certificate of the judge thereof; by the commissioners court of said county, and in addition thereto he shall receive his actual traveling expenses going to and from said court to be paid in like manner as his per diem, not exceeding \$2 per day.

Sec. 8. If any party to any suit or other person desiring a statement of facts in any cause in which such stenographer has taken stenographic notes of the evidence as provided for in this act, such party, his counsel or other person may obtain from such stenographer a duly certified statement of all the facts introduced in evidence, both oral and written, making application therefor in writing to such stenographer as provided for in this act, and paying to such stenographer an amount equal to 5 cents per folio of one hundred words, as shown by

the stenographic notes of such stenographer, but such stenographer in making out such statement of facts shall only be required to make out said statement of facts in narrative form and may employ a less number of words than are disclosed in such stenographic report, but his compensation shall be as aforesaid the sum of 5 cents per folio of one hundred words as shown by his stenographic report, and shall receive in addition to said 5 cents per one hundred words the sum of 5 cents per page for each page of the copy of such statement of facts filed with the clerk, as provided for in Section 5 of this act, such additional sum to be paid for by the party applying for such statement of facts.

Sec. 9. If any party to a suit, his or her counsel, or other person, shall during the trial of any cause or afterwards desire any part of the evidence in any suit, transcribed from the stenographer's notes to be used in argument or to be incorporated in bill of exception, it shall be the duty of such stenographer to furnish such transcript of such evidence or proceeding to such party promptly upon the payment to such stenographer of at least 10 cents per folio of one hundred words.

Sec. 10. When any such stenographer has made out and certified to any statement of facts, transcribed from his notes in any cause of action, he shall incorporate in his certificate the party applying for such statement of facts, the date of such application, the date of the delivery of such statement of facts and the amount charged and collected therefor, and the cost of such statement of facts shall be taxed in said suit if an appeal be taken as other costs.

Sec. 11. Every stenographer appointed under this act shall on the first day of January of each year of his appointment file with the district clerk of the county of his residence a statement of all moneys received by him as such stenographer for the next preceding twelve months, such statement by such officer and shall show the various sums of money received by him for said year, when paid and by whom paid, and shall be sworn to by such stenographer.

Sec. 12. It shall be unlawful for any stenographer to receive under this act more than \$2500 per annum in fees as such stenographer, and in case he shall receive more than such sum per annum he shall on the first of January of each year transmit such excess to the State Treasurer of the State of Texas to be by such officer placed to the credit of the common school fund of the State of

Texas, and a certificate of such remittance shall be by such stenographer filed with the district clerk of the county in which such stenographer resides, and in the event of the resignation or dismissal of any stenographer appointed under this act before the expiration of any year from which he may have been appointed, he shall file with such clerk a statement under oath of all moneys received by him as such official stenographer, when paid and by whom paid.

Sec. 13. When any stenographer appointed under the provisions of this act shall knowingly fail or neglect to perform his duties as prescribed hereunder and any party to any suit or action at law shall suffer any damage by reason thereof, such stenographer, together with his bondsman shall be liable to such person for such damage in a suit against such stenographer and his bondsmen in a court of competent jurisdiction; provided, that the liability of his sureties shall not exceed the amount of such bond.

Sec. 13a. That Chapter 60, Acts of the Twenty-eighth Legislature of the State of Texas, and Chapter 112 of the Acts of the Twenty-ninth Legislature of the State of Texas, providing for the appointment of official stenographers, prescribing their duties and regulating their charges, be and the same are hereby expressly repealed; provided, however, that nothing in this act shall be construed as preventing parties to suits from preparing statements of facts on appeal independent of the official stenographer as provided for under former laws.

Sec. 14. The fact that the present law relating to the appointment of official stenographers has caused and is causing confusion is unjust to litigants, and onerous in its application to the business of the courts and the further fact of the limited time within which to introduce bills and be acted upon at the present special session of the Legislature, creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days be suspended, and that this act take effect from and after its passage, and it is so enacted.

Senator Green moved that further consideration of this bill be postponed until tomorrow morning and made a special order following the consideration of Senate bill No. 1, and that Senate bill No. 23, which was on the same subject, be printed in the Journal.

The motion prevailed, and following is Senate bill No. 23 in full:

S. B. No. 23. By Skinner, Looney
and Alexander.

A BILL

To Be Entitled

An Act to provide for the appointment of a court stenographer to report cases; to make the report of such stenographer, when approved and filed, the basis for the statement of facts of the oral evidence in any cause where an appeal is taken; to prescribe the way and manner in which statements of fact shall be made up, and to provide for the compensation of such stenographer, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

That Chapter 112 of the Acts of the Regular Session of the Twenty-ninth Legislature, 1905, entitled "An Act to provide for the appointment of a competent stenographer to report cases, and to make the report of such stenographer, when filed and approved, the statement of facts of the oral evidence in the case; and to provide for the compensation of such stenographer," be so amended as to hereafter read as follows:

Section 1. For the purpose of preserving the record in all cases for the information of the court, jury and parties, the judges of the district courts in all the judicial districts of this State, composed of only one county, or of only a portion of one county, and all other district courts sitting in the same counties therewith, shall appoint an official stenographer for such court, who shall be well skilled in stenography, and who shall be a sworn officer of the court, and shall hold his office during the pleasure of the court.

Sec. 2. Before any person can be appointed in the first instance an official stenographer of any court contemplated by this act, he shall be examined as to his competency by a committee of at least three members of the bar practicing in said court, such committee to be appointed by the judge thereof. The test of competency shall be as follows: The applicant shall write, in the presence of such committee, at the rate of at least one hundred and twenty words per minute for five consecutive minutes, from questions and answers not previously written by him, and transcribe the same with accuracy. If the applicant pass this test satisfactorily, a majority of the committee shall furnish him with a certificate of the fact, which shall be

filed in the records of the court. Upon the occasion of subsequent appointments, the presentation of certified transcript from the clerk of the court of the certificate above mentioned shall be taken as prima facie evidence of the stenographer's competency.

Sec. 3. It shall be the duty of the official stenographer to attend all sessions of the court, to take full stenographic notes of the oral evidence offered in every case tried in said court, together with all objections to the admissibility of testimony, the rulings of the court thereon, and all exceptions taken to such rulings; to preserve all official notes taken in said court for future use or reference, and upon request of the judge or either party, or the attorney of either party, in such cause, the stenographer shall file therein a full and complete transcript of the oral evidence adduced upon the trial of such cause, together with all objections interposed and the rulings of the court thereon; provided, that such transcript shall not be filed unless and until notice of appeal is given in such cause.

Sec. 4. In case an appeal is taken from the judgment rendered in such cause, either party may make out a condensed statement of all the material facts given in evidence on the trial and submit the same to the opposite party or his attorney for inspection. If the parties or their attorneys agree upon such statement of facts, they shall sign the same, and it shall then be submitted to the judge, who shall, if he find it correct, approve and sign it, and the same shall be filed with the clerk as the statement of facts on such appeal in such cause. Where it is agreed by the parties to the suit, or their attorneys of record, that the evidence adduced upon the trial of the cause is sufficient to establish a fact or facts alleged by either party, the testimony of the witnesses and the deeds, wills, records, or other written instruments, admitted as evidence relating thereto, shall not be stated or copied in detail into a statement of facts, but the facts thus established shall be stated as facts proved in the case; provided, an instrument, such as a note or other contract, mortgage or deed of trust, that constitutes the cause of action on which the petition, or answer, or cross-bill, or intervention, is founded, may be copied once in the statement of facts.

When there is any reasonable doubt of the sufficiency of the evidence to constitute proof of any one fact under the preceding rule, there may then be in-

serted such of the testimony of the witnesses and written instruments, or parts thereof, as relate to such facts; provided, that such stenographic notes shall be conclusive as to the oral evidence in such cause.

Sec. 5. In any criminal case where the defendant is convicted of a felony, and desires to appeal, upon a satisfactory showing to the court that he is unable to pay for the stenographer's transcript, the judge of the court in which said defendant is convicted shall order the official stenographer to make the same for the defendant, in which event the same shall be paid for at the rate provided for in this act, and in the same manner as the transcript of the clerk of the court is paid for.

Sec. 6. After the final disposition of said cause on appeal, the stenographer's report, together with all other original evidence, if any, shall be returned to the clerk of the district court from whence appeal was taken.

Sec. 7. All objections to the admissibility of testimony, if any, shown by said stenographic report and the ruling of the court thereon, shall be regarded and considered as though they were separate bills of exception; provided, however, nothing therein shall be so construed as prohibiting parties from filing separate bills of exception as the law now provides, in case such parties elect to do so, and when done shall be prepared and filed as in other cases provided by law.

Sec. 8. The official stenographer shall receive as per diem compensation the sum of \$5 for each and every day he shall be in attendance upon the court for which he is appointed, to be paid monthly out of the general fund of the county in which said court sits, upon the certificate of the judge thereof, by the commissioners court of said county. He shall also receive from the person or persons obtaining a transcript of his notes the sum of 15 cents per folio of one hundred words for each transcript furnished; and shall also receive 10 cents per folio of one hundred words for each transcript filed in any cause under the provisions of this act, which shall be taxed and paid as other costs.

Sec. 9. Hereafter the clerks of all the courts having appointed official stenographers, as provided for in this act, shall tax as costs in each civil case now or hereafter pending in such court, except suits for the collection of delinquent taxes, and except suits which are not contested, in which cases the imposition of the stenographer's fee herein provided

for shall be within the discretion of the trial court, a stenographer's fee of \$3, which shall be paid as are other costs in the case, and which shall be paid by said clerk, when collected, into the general fund of the county in which said court sits, except cases in which the district court has not original jurisdiction.

Sec. 10. The official stenographer may, with the consent of the court, appoint one or more deputies, when necessary, to assist him in the discharge of his duties.

Sec. 11. It shall be the duty of each official stenographer to file with the district clerk of the county for which said stenographer is appointed annually upon the first day of January after his appointment, an itemized statement, verified by his affidavit, of all sums collected by him as per diem or other compensation during the preceding year, giving the name of the person paying each sum and the date of the payment of the same.

Sec. 12. It shall be the duty of the county treasurer of all counties in which the districts courts having official stenographers shall sit to file with the clerk of such court annually on the first day of January an itemized statement of all sums received by him from such clerk during the preceding year as stenographer's fees by such clerk.

Sec. 13. In all other judicial districts, the district judge thereof may appoint an official stenographer, if in his judgment such appointment is necessary, and in the event of such appointment, the terms of this act shall apply, and thereafter in every civil case filed in the district court of said judicial district, there shall be taxed and collected the stenographer's fee as provided for in Section 9 of this act, and the stenographer so appointed shall receive the compensation hereinbefore provided.

Sec. 14. The fact that the present law relating to the appointment of official stenographers has caused and is causing confusion and delay in the appellate courts, and needs amending, constitutes an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring bills to be read on three several days, and said rule is hereby suspended, and this act shall take effect from and after its passage, and it is so enacted.

SENATE BILL NO. 22.

The Chair laid before the Senate, on second reading.

Senate bill No. 22, A bill to be entitled

"An Act to amend Article 723, Chapter 5, Title VIII, of the Code of Criminal Procedure of the State of Texas, adopted at the Regular Session of the Twenty-fourth Legislature, and as amended by an act of the Twenty-fifth Legislature, relating to appeal of criminal cases to the Court of Criminal Appeals of Texas."

Senator Chambers made the point of order on the bill that the Senate had voted down, on yesterday, a bill containing the same subject matter, or practically so, as contained in this bill.

The Chair overruled the point of order.

The question then recurred on the committee report, there being an adverse majority committee report and a favorable minority committee report.

Senator Senter moved the adoption of the minority committee report.

ADJOURNMENT.

Senator Alexander moved that the Senate adjourn until 10 o'clock tomorrow morning.

Senator Senter moved that the Senate adjourn until tomorrow evening at 2 o'clock.

Action being on the longest time first, the motion to adjourn until 2 o'clock tomorrow was lost by the following vote:

Yeas—5.

Harper.	Senter.
Hudspeth.	Terrell.
Kellie.	

Nays—20.

Alexander.	Looney.
Barrett.	Meachum.
Brachfield.	Murray.
Chambers.	Paulus.
Cunningham.	Skinner.
Faust.	Smith.
Glasscock.	Stokes.
Green.	Stone.
Greer.	Watson.
Grinnan.	Willacy.

Absent.

Harbison.	Mayfield.
Holsey.	Veale.
Masterson.	

Absent—Excused.

Griggs.

The motion to adjourn until tomorrow morning at 10 o'clock was then adopted by the following vote:

5-ss

Yeas—14.

Alexander.	Kellie.
Brachfield.	Looney.
Chambers.	Murray.
Cunningham.	Paulus.
Glasscock.	Smith.
Grinnan.	Terrell.
Harper.	Willacy.

Nays—11.

Barrett.	Senter.
Faust.	Skinner.
Green.	Stokes.
Greer.	Stone.
Hudspeth.	Watson.
Meachum.	

Absent.

Harbison.	Mayfield.
Holsey.	Veale.
Masterson.	

Absent—Excused.

Griggs.

APPENDIX.

COMMITTEE REPORTS.

Committee Room,

Austin, Texas, April 24, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Public Lands and Land Office, to whom was referred

Senate bill No. 42, A bill to be entitled "An Act to amend Sections 5 and 6 of Chapter 103, passed by the Regular Session of the Twenty-ninth Legislature, and approved April 15, 1905, relating to the sale and lease of the land belonging to the public free school and asylum funds, and to add thereto Sections 6a, 6b, 6c, 6d, 6e, 6f and 6g, relating to the sale, settlement and residence on land, sales without residence, sale of timber, sales for cash or on time, transfers, forfeitures, reservation of minerals, gayule, lechuguilla, and providing a penalty for cutting or removing such substance from the land, certificates of occupancy to become muniments of title, authorizing the Commissioner to adopt rules and regulations necessary to execute the provisions of this act, repealing all laws in conflict with this act, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommen-

dation that it do pass, with the following committee amendment:

Amend by adding after the word "county," in line 7, Section 5, page 1, the following: "Provided, an original lessee who has not heretofore exercised his right to buy one complement of sections out of one or more leases, and should not hereafter desire to do so, may assign one or more leases to a qualified purchaser, and his assignees shall have the same right to purchase out of the leases one complement of sections, or such number thereof as his assignor may be qualified to purchase, or such number thereof as the assignee may be qualified to purchase."

By adding in Section 6d, after the word "tract" and preceding the sentence beginning with the words "In such cases the assignee shall continue to reside," the following: "Provided, the total tracts so purchased by an assignee prior to the completion of the residence of the vendor, together with the former purchase of the assignee, shall not exceed one complement of sections."

MURRAY, Chairman.

Committee Room,

Austin, Texas, April 25, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Finance Committee, to whom was referred

House bill No. 2, A bill to be entitled "An Act to amend Article 2439, Chapter 1, Title 45, of the Revised Civil Statutes of Texas, relating to fees of office charged and collected by certain State officers, as amended by Chapter 91 of the General Laws of the Regular Session of the Twenty-ninth Legislature of Texas, and adding thereto Article 2439a, prohibiting the approval or payment of any account or claim to any official who refuses or fails to take out his commission, and declaring an emergency,"

Have had the same under consideration, and beg to report the same back with the recommendation that it do pass with the following amendment:

Strike out the figures "\$1.00," in line 11 of Article 2439, page 1, and insert the words "fifty cents."

WILLACY, Chairman.

Committee Room,

Austin, Texas, April 25, 1903.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 13, A bill to be entitled "An Act to amend Articles 643 and 644, Chapter 2, Title VIII, of the Code of Criminal Procedure of the State of Texas, adopted at the Regular Session of the Twenty-fourth Legislature providing for the order of a special venire in any district court in a criminal action for a capital offense, so that the said Articles 643 and 644 may hereafter be as follows,"

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

Committee Room,

Austin, Texas, April 25, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Senate bill No. 11, A bill to be entitled "An Act providing for the appointment of court bailiffs by the judges of the district courts in certain counties of this State; prescribing their qualifications, the oath to be taken by them, their compensation, their duties and providing for suitable punishment for the violation of the duties imposed upon them, and declaring an emergency,"

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

Committee Room,

Austin, Texas, April 25, 1907.

Hon. A. B. Davidson, President of the Senate.

Sir: Your Committee on Engrossed Bills have carefully examined and compared

Committee Substitute bill for Senate bill No. 2, A bill to be entitled "An Act to amend Articles 5058, 5059 and 5060 of Title CIV, Chapter 1, Revised Civil Statutes of 1895 of the State of Texas, and to add thereto Article 5058a,"

And find the same correctly engrossed.
CUNNINGHAM, Chairman.

ELEVENTH DAY.

Senate Chamber,

Austin, Texas,

Friday, April 26, 1907.

The Senate met pursuant to adjournment, Lieutenant Governor Davidson presiding.

Roll call, quorum present, the following Senators answering to their names:

Alexander.
Barrett.

Brachfield.
Chambers.